

Case 9:22-cv-00037-MAC-ZJH Document 15 Filed 04/25/23 Page 1 of 2 PageID #: 133

EASTERN DISTRICT OF TEXAS

MARK SCHWARZER,

Plaintiff,

versus

CLERK OF COURT REBA D. SQUYRES,
et al.,

Defendants.

CIVIL ACTION NO. 9:22-CV-37

**MEMORANDUM ORDER OVERRULING PLAINTIFF'S OBJECTIONS AND
ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff Mark Schwarzer, an inmate confined in the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, brought this lawsuit pursuant to 42 U.S.C. § 1983.

The court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge recommends dismissing this action for want of prosecution.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record, pleadings and all available evidence. Plaintiff filed objections to the magistrate judge's Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration, the court concludes Plaintiff's objections are without merit.

The Fifth Circuit recently affirmed the severance of this action from the original action plaintiff filed in the Tyler division. *See Schwarzer v. Squyres*, No. 22-40256 (5th Cir. Jan. 19, 2023). Since the enactment of the fee provisions of the Prison Litigation Reform Act (“PLRA”), courts have discouraged the joinder of multiple unrelated claims and parties to avoid paying the filing fee by creative joinder. *See Hubbard v. Haley*, 262 F.3d 1194, 1198 (11th Cir. 2001) (finding severance in multi-plaintiff prisoner action proper to prevent plaintiffs from circumventing

PLRA's unambiguous requirement that each plaintiff must pay the full filing fee); *Patton v. Jefferson Correctional Center*, 136 F.3d 458, 464 (5th Cir. 1998) (discouraging "creative joinder of actions" by prisoners attempting to circumvent the PLRA's three-strikes provision). "[I]n the context of prisoner-litigation, ensuring that unrelated claims against different defendants are brought in separate actions safeguards the required fees in the Prison Litigation Reform Act." *Spurlock v. Jones*, No. 2:16cv1031, 2016 WL 7443644 at *1 (W.D. La. Dec. 22, 2016), *aff'd*, 709 F. App'x 293 (5th Cir. Jan. 16, 2018). Therefore, plaintiff is responsible for payment of the filing fee in this action, and his objections are without merit.

ORDER

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendation.

SIGNED at Beaumont, Texas, this 25th day of April, 2023.



MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE